

***A Bylaw to regulate the use and maintenance of boulevards by owners and occupiers of adjacent lands in the City of Port Coquitlam.***

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WHEREAS the *Community Charter* prohibits a person from excavating in, causing a nuisance on, obstructing, fouling or damaging any part of a highway, except as permitted by a municipal bylaw;

WHEREAS the Council of the Corporation of the City of Port Coquitlam deems it expedient to provide for the use and occupation of highway boulevards by owners and occupiers of adjacent lands;

NOW THEREFORE the Council of the Corporation of the City of Port Coquitlam enacts as follows:

**Citation**

1. This bylaw may be cited for all purposes as the “Boulevard Maintenance Bylaw, 2018, No. 3965.”

**Severability**

2. If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

**Repeal**

3. Boulevard Maintenance Bylaw, 1992, Bylaw No. 2646 and all amendments thereto, is repealed.

**Definitions**

In this bylaw:

- a. “Authorized person” means any officer, employee or agent of the City authorized by this or any other bylaw of the City to enforce this bylaw, and includes, those individuals holding the positions of Manager of Bylaw Services, the Director, and any person delegated by the Director as an authorized person for the purposes of this bylaw.

- b. "Boulevard" means any portion of the area from the edge of the pavement or curb of a highway, or where there is no pavement or curb from the edge of the traveled portion of the highway, to the property line, and includes the space below and above the surface of the land, but excludes the sidewalk.
- c. "City" means the City of Port Coquitlam.
- d. "DBH" means a diameter measured 1.4 metres above the highest immediately adjacent natural ground level.
- e. "Director" means the Director of Engineering and Public Works of the city and any person designated by the Director to administer this bylaw.
- f. "Ditch Crossing" means any bridge, culvert, or other construction spanning a highway ditch.
- g. "Highway Ditch" means a drainage ditch greater than 2.5 metres in width, located within the right of way of a highway in the possession and control of the city.
- h. "Highway" means
  - i. any public street, roadway, trail, lane, bridge, trestle and any other public way, pursuant to the definition in the *Transportation Act*; and
  - ii. every road, street, land or right-of-way designed or intended for or used by the general public for the passage of vehicles.
- i. "Noxious Weed" means any weed designated in the *Weed Control Act*, RSBC 1996, c. 487, as amended.
- j. "Occupier" means a person who:
  - i. is in physical possession of land, premises or property, or
  - ii. is responsible for, and has control over, the condition of, the activities conducted on and the persons allowed to enter or use, land, premises or property;

but excludes the occupier of a unit in an apartment, hotel or community care institution.
- k. "Owner" means any person who is the registered owner, or owner under agreement, of real property, and includes any person in actual or apparent possession of real property under a lease, licence or agreement with another owner;
- l. "Rubbish" includes the following:
  - i. accumulations of soil, leaves, grass clippings, branches, twigs and other vegetation or landscape materials;
  - ii. litter of any kind;

- iii. garbage, other than that which is properly placed on the highway pursuant to the garbage collection requirements of the City;
  - iv. compost materials, where such materials may encroach onto the boulevard or sidewalk;
  - v. household objects including furniture, mattresses and bathroom fixtures; and
  - vi. any other object that could reasonably pose a hazard or nuisance to anyone using a sidewalk.
- m. "Sidewalk" means that part of a highway designed primarily for public pedestrian use, including, without limitation, a sidewalk, walkway, stairway, ramp or curb letdown, and any customarily travelled footpath, including without limitation, any footpath made of gravel, asphalt limestone, dirt or other material and the unpaved edge adjoining any asphalt road surface where no finished sidewalk exists, and for certainty does not include the boulevard.
  - n. "Tree" means a woody, perennial plant having one or more stems, with at least one stem having a DBH of 6 cm or more.
  - o. "Vehicle" means the same as in the *Motor Vehicle Act*, RSBC 1996, c. 318.

#### **Sidewalk Snow and Ice Removal**

- 4. Every owner or occupier of real property must remove or cause to be removed any snow or ice from any sidewalk bordering real property within 24 hours of the cessation of the event which resulted in the deposit of snow or ice, regardless of whether the snow or ice was deposited on the sidewalk by natural, human, mechanical or other means.

#### **Rubbish Removal**

- 5. Every owner or occupier of real property (with the exception of lands adjacent to the Lougheed Highway which do not have commercial frontage) must:
  - a. remove, within 48 hours, any rubbish from any sidewalk adjacent to the owner or occupier's real property; and
  - b. remove, within 48 hours, any rubbish from any part of the boulevard adjacent to the owner or occupier's real property.

#### **Boulevard Maintenance**

- 6. The owner or occupier of land adjacent to a boulevard may improve the portion of the boulevard directly adjacent to the owner or occupier's land by sodding or planting it with lawn and planting shrubs, ground covers, flowers, grasses or similar ornamental

landscaping materials, but in no case including any noxious weeds, and subject to Section 8;

7. No owner or occupier of real property adjacent to a boulevard shall:
  - a. construct any structure on the boulevard, including, without limitation, any fence, wall, gate, retaining wall or rockery;
  - b. erect any signage on the boulevard, except as permitted by the City's Election Signs Bylaw;
  - c. plant any tree, hedge, bush or shrub on the boulevard which, when fully grown, will or is likely to have a height in excess of one metre or be likely to partially or wholly obstruct access to any sidewalk by pedestrians or prevent or inhibit the safe use of the highway by vehicular and cycle traffic;
  - d. otherwise landscape or apply treatment to the boulevard in a manner that will, or will be likely to, obstruct access to any sidewalk by pedestrians, prevent or inhibit the safe use of the highway by vehicular and cycle traffic, or prevent or inhibit the use of the boulevard for the parking of vehicles, including by the placement of large rocks;
  - e. place or install any impervious surface on any part of the boulevard, including but not limited to the installation of paved parking stalls;
  - f. interfere with access to, bury, expose or damage any pipe, hydrant, valve box, service post, manhole or other utility infrastructure located on, in or adjacent to the boulevard;
  - g. obstruct sight lines from driveways or sidewalks or, when located near an intersection, obstruct driver sight lines from intersecting streets;
  - h. damage:
    - i. sidewalk, curb, gutter or other municipal infrastructure,
    - ii. trees, shrubs, plants, bushes and hedges,
    - iii. fences, or
    - iv. highway lighting,located on any boulevard;
  - i. dispose of any vegetation cuttings, rubbish, discarded materials or any liquid or solid waste on any boulevard;
  - j. cut down any tree, any portion of the trunk of which is located on a boulevard;
  - k. otherwise undertake any activity or works which would alter the natural grade of the boulevard, or effect drainage patterns of the boulevard,

without prior written consent of the Director, which consent is within the Director's sole discretion to issue or withhold.

8. It is a condition of using a boulevard under the authority of Section 6 that an owner or occupier, at the owner or occupier's sole expense, maintains the boulevard to a good and safe standard consistent with the standard that the property owner or occupier would use in the care of his or her landscaping on his or her own property, to the reasonable satisfaction of the Director.
9. Without in any way restricting the standard of maintenance required by Section 8, an owner or occupier of real property adjacent to a boulevard will ensure that:
  - a. all trees, shrubs, bushes, hedges, grass or other vegetation, other than noxious weeds, on the boulevard receive such water as is necessary for the sustained growth and health of that vegetation;
  - b. no noxious weeds are permitted to grow on the boulevard;
  - c. any grass on the boulevard is not allowed to exceed 15 centimeters in height, with the exception of ornamental grasses;
  - d. no pesticides are used on the boulevard;
  - e. where the boulevard contains rocks, gravel, pebbles, bark mulch or other loose landscaping or surfacing materials, such materials shall be contained and none of those materials is allowed to escape from the placement within in boulevard to fall, roll, or otherwise encroach onto any sidewalk or highway; and
  - f. no hazardous or potentially hazardous situations are allowed to develop or remain.
10. There are two exemptions to the requirements of this bylaw, as follows:
  - a. Owners or occupiers of real property adjacent to the Lougheed Highway, that do not have commercial operations fronting the highway, are exempt from all requirements of Section 9; and
  - b. Owners or occupiers of real property are not required to maintain boulevard improvements installed by the City, such as boulevard trees.
11. The City may, with only such notice to the owner of the adjacent land as is in the opinion of the Director reasonably practicable in the circumstances, and without compensation of the owner, interfere with or remove any improvement made to or placed on a boulevard under the authority of Section 6 if the use of the boulevard is required for any municipal purpose. The City has no obligation to replace or restore any such improvement.
12. Every ditch crossing shall be maintained and repaired by the owner of the land served by the ditch crossing, including but not limited to ensuring that there is no obstruction

to the free flow of water under the ditch crossing, during the life of the installation of the ditch crossing.

### **Notice of Non-Compliance**

13. An Authorized Person may, by written notice to an owner of real property, require the owner to comply with this Bylaw within the time specified in the notice.

### **City Effects Compliance**

14. If the owner or occupier of real property fails to comply with a notice given pursuant to Section 13 of this Bylaw, the City, by its employees or other persons, at reasonable times, may enter on the real property and effect the compliance specified in the notice at the expense of the person who failed to comply, and to recover the cost of doing so as a debt.

### **No Interference**

15. No person shall interfere with:
  - a. an Authorized Person in the performance of his or her duties under this Bylaw, or
  - b. any employee or other person directed by the City to carry out the terms of any notice pursuant to Section 13 of this bylaw.

### **Offences**

16. Every person who:
  - a. violates a provision of this bylaw;
  - b. consents, allows or permits an act or thing to be done in violation of a provision of this bylaw or a permit issued pursuant to this bylaw; or
  - c. neglects to or refrains from doing anything required to be done by a provision of this bylaw or a permit issued pursuant to this bylaw;is guilty of an offence and is liable to the penalties imposed under this bylaw.
17. For certainty, in the case of offences involving the cutting or damaging of more than one tree, shrub, or plant, an offence is committed in respect of each individual specimen and the maximum penalties imposed under this bylaw apply to each such offence.
18. For certainty, in the case of offences of a continuing nature, an offence is committed on each day during which the offence continues, and the maximum penalties imposed under this bylaw apply to each such offence.

19. Every person who commits an offence is liable on summary conviction to a fine not exceeding \$10,000.00.

20. Nothing in this Part precludes the City from seeking any civil remedy to which it is entitled in relation to trespass on City land.

<i>READ A FIRST TIME this</i>	<i>22<sup>nd</sup> day of</i>	<i>May, 2018</i>
<i>READ A SECOND TIME this</i>	<i>22<sup>nd</sup> day of</i>	<i>May, 2018</i>
<i>READ A THIRD TIME this</i>	<i>22<sup>nd</sup> day of</i>	<i>May, 2018</i>
<i>ADOPTED this</i>	<i>12<sup>th</sup> day of</i>	<i>June, 2018</i>

**GREG MOORE**  
*Mayor*

**GABRYEL JOSEPH**  
*Corporate Officer*